

SENATE BILL NO. 146

INTRODUCED BY R. LAIBLE

BY REQUEST OF THE FIRE SUPPRESSION COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A CREDIT AGAINST INDIVIDUAL INCOME OR CORPORATE INCOME TAXES FOR BIOMASS PRODUCTION OR BIOMASS COLLECTION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Biomass production or collection -- definitions. (1) (a) Subject to subsection (1)(c), an agricultural producer or biomass collector is allowed a credit against the taxes that would otherwise be due under Title 15, chapter 30 or 31, for the production or collection of biomass that is used in Montana as biofuel, ~~or~~ to produce biofuel, or used to generate electricity.

(b) A credit under this section may be claimed in the tax year in which the agricultural producer or biomass collector transfers biomass to a biofuel producer.

(c) A tax credit is not allowed for grain corn, but a tax credit is allowed for other corn material.

(2) The amount of the credit must be calculated as follows:

(a) determine the quantity of biomass transferred to a biofuel producer or biomass electric generating facility during the tax year;

(b) categorize the biomass into appropriate categories; and

(c) multiply the quantity of biomass in a particular category by the appropriate credit rate for that category, expressed in dollars and cents, that is prescribed in subsection (7).

(3) The amount of the credit claimed under this section for any tax year may not exceed the tax liability of the taxpayer.

(4) (a) A biofuel producer shall provide a written receipt to an agricultural producer or biomass collector at the time biomass is transferred from the agricultural producer or biomass collector to the biofuel producer or biomass electric generating facility. The receipt must state the quantity and type of biomass being transferred and that the biomass is to be used to produce biofuel or generate electricity.

(b) Each agricultural producer and biomass collector shall maintain the receipts described in subsection (4)(a) in their records for a period of at least 5 years after the tax year in which the credit is claimed or for a longer period of time prescribed by the department.

(5) The credit must be claimed on a form prescribed by the department that contains the information required by the department.

(6) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular tax year may be carried forward and offset against the taxpayer's tax liability for up to 4 succeeding tax years but may not be carried forward beyond the fourth tax year.

(7) The credit rates for biomass are:

(a) for oil seed crops, \$0.05 per pound;

(b) for grain crops, including but not limited to wheat, barley, and triticale, \$0.90 per bushel;

(c) for virgin oil or alcohol delivered for production in Montana from Montana-based feedstock, \$0.10 per gallon;

(d) for used cooking oil or waste grease, \$0.10 per gallon;

(e) for wastewater biosolids, \$10 per wet ton;

(f) for woody biomass collected from nursery, orchard, agricultural, forest, or rangeland property in Montana, including but not limited to pruning, thinning, plantation rotations, log landing, or slash resulting from harvest or forest health stewardship, \$10 per green ton;

(g) for grass, wheat, straw, or other vegetative biomass from agricultural crops, \$10 per green ton;

(h) for yard debris and municipally generated food waste, \$5 per wet ton; and

(i) for animal manure or rendering offal, \$5 per wet ton.

(8) As used in this section and [section 2], the following definitions apply:

(a) "Agricultural producer" means a person that produces biomass that is used in Montana as biofuel or to produce biofuel.

(b) "Biofuel" means liquid, gaseous, or solid fuels derived from biomass.

(c) (i) "Biomass" means organic matter that is available on a renewable or recurring basis and that is derived from:

(A) forest or rangeland woody debris from harvesting or thinning conducted to improve forest or rangeland ecological health and reduce wildfire risk;

(B) agricultural residues;

(C) offal and tallow from animal rendering;

(D) food wastes;

(E) yard or wood debris;

(F) wastewater solids; or

(G) crops grown solely to be used for energy.

(ii) The term does not mean wood that has been treated with creosote, pentachlorophenol, inorganic arsenic, or other inorganic chemical compounds.

(d) "Biomass collector" means a person that collects biomass to be used in Montana as biofuel or to produce biofuel.

(e) "Biomass electric generating facility" means all plant and equipment used to generate electricity using biomass as its principal fuel source but does not include any plant or equipment permitted to burn coal.

NEW SECTION. Section 2. Transfer of biomass credit. (1) Subject to subsection (3), a person that has obtained a tax credit under [section 1] may transfer the credit for consideration to a taxpayer subject to tax under Title 15, chapter 30 or 31.

(2) To transfer the tax credit, the taxpayer earning the credit and the taxpayer that will claim the credit shall jointly file a notice of tax credit transfer with the department. The notice must be given on a form prescribed by the department that contains all of the following:

(a) the name, address, and taxpayer identification number of the transferor and the transferee;

(b) the amount of the tax credit; and

(c) any other information required by the department.

(3) A tax credit may not be transferred under this section:

(a) from an agricultural producer to a biomass collector claiming a credit for collecting the biomass; or

(b) from a biomass collector to an agricultural producer claiming a credit for producing the biomass.

NEW SECTION. Section 3. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 15, chapter 32, and the provisions of Title 15, chapter 32, apply to [sections 1 and 2].

NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.

NEW SECTION. Section 5. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2008.

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